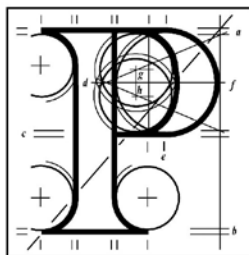


# An Bord Pleanála



## Inspector's Report

**Development:** The development will comprise 16 residential units, including 9 three storey 3 – 4 bed houses, and a four storey apartment block (with roof garden), comprising 1 one-bed (with study), 5 two-bed, and 1 three-bed apartments, and off-street car and bicycle parking, bin storage areas, works to existing stone wall on Church Avenue, and all associated site development, landscaping, boundary treatment works and services provision on site at the corner of Church Avenue and Church Gardens, and lands to the rear of properties nos. 44 – 54 Upper Rathmines Road (all protected structures), Rathmines, Dublin 6.

### Application

Planning authority: Dublin City Council  
Planning application reg. no. 3766/14  
Applicant: Dumbarton Construction Ltd  
Type of application: Permission  
Planning authority's decision: Grant, subject to 19 conditions

### Appeal

Appellant: Belgrave Road Residents' Association  
Type of appeal: Third party -v- Decision  
Observers: None  
Date of site inspection 9<sup>th</sup> March 2016  
Inspector: Hugh D. Morrison

## Site

The site is located to the south of Rathmines Key District Centre on Church Avenue, an east/west route that runs between Palmerston Road and Rathmines Road Upper (R820). The focal point of Church Avenue is Holy Trinity Church, which lies in an island site towards the mid-point of the Avenue. The site lies on the northern side of this Avenue in a position between the rear gardens to terraced three storey over basement houses on the east side of Rathmines Road Upper and Church Gardens, a side street that is composed predominantly of two storey semi-detached and terraced dwelling houses. Beyond Church Gardens, the remainder of Church Avenue forward of Holy Trinity Church is composed of Trinity House, a three storey commercial building, and a terrace of two storey over basement dwelling houses.

On the southern side of Church Avenue, opposite the site there is a car sales yard, which is accompanied by a part single/part two storey commercial building, which also includes a solicitor's office. Church Lane corresponds across the Avenue with Church Gardens. This Lane includes three storey residential development to the rear of garages that line the street. This development is attached to the aforementioned two storey commercial building and its exposed northern side elevation above this building aligns with the front elevations of a terrace of two storey over basement dwelling houses on the southern side of Church Avenue to the east.

The site itself is of rectangular shape except for an insertion towards the south western corner where the rear garden to No. 54 Rathmines Road Upper encroaches into it. This site is presently cleared and vacant, having previously been used as a garage and car sales place. It falls slightly towards the north eastern corner. The site extends over an area of 0.214 hectares. Its southern boundary with Church Avenue is denoted by a stone wall along the western half and a hoarding along the eastern half, which includes a pair of gates within it affording vehicular and pedestrian access. This hoarding is returned along the eastern boundary with Church Gardens. The northern boundary is denoted by stone walls and the remains of a former building. The western boundary is partially open and partially denoted by timber fencing.

## Proposal

The proposal would entail the construction of 16 residential units (gross floor space 2244 sq m and net floor space 2030 sq m), which would be provided in 9 three storey dwelling houses and 7 apartments which would be accommodated in a four storey block with a roof garden. The site would be accessed from Church Avenue and an accompanying access road would be constructed through roughly the middle of this site. To the east of this road, Block A would comprise 4 of the dwelling houses and the apartment block and, to the west, Blocks B and C would comprise, variously,

4 and 1 of the dwelling houses, i.e. on either side of the insertion into the site described above.

The apartment block would be sited towards the south eastern corner of the site. This block would accommodate 1 one-bed (with study), 5 two-bed, and 1 three-bed apartments, which would range in size between c. 74 sq m and c. 117 sq m. It would be accessed off Church Gardens and it would be accompanied by car parking spaces to the front and to the rear. Bicycle parking would also be provided to the front and a bin store to the rear.

Block A dwelling houses would be 4-bed ones, which would be sited in a row to the north of the apartment block, with car parking spaces to the front and gardens to the rear, including terraces above the latter at second floor level. Block B dwelling houses would be 3-bed ones, which would be sited in a row parallel to the Block A dwelling houses. The Block C dwelling house would be a 3-bed one, too, and it would be sited to the south of Block B. The dwelling houses in these two Blocks would have car parking spaces and landscaped areas to the front and gardens to the rear, including terraces above the latter at second floor level. All of the dwelling houses would range in size between c. 128 sq m and 184 sq m.

The proposal would also entail works to the existing stone wall along the southern boundary with Church Avenue and the continuation of this wall towards the south eastern corner of the site.

Following a request for further information, the design of the proposal was revised mainly with respect to the apartments in Block A and the dwelling house (Block C) in a bid to reduce their visual impact by scaling down their presence within the streetscape and by toning-down their appearance by the re-specification of buff coloured bricks instead of red ones.

### **Planning authority's decision**

Following receipt of further information, permission was granted subject to 19 conditions, including ones that require the following:

3. Remove from Block C the brick frame for the terrace area on the second floor and remove this design feature from Block A in its entirety.
4. Omit the communal terrace from Block A and reduce the three-bed penthouse to a two-bed one (minimum floorspace 80 sq m) and provide an appropriately sized communal terrace.

### **Technical reports**

- Roads and Traffic Planning: No objection, subject to conditions.

- Drainage: Following receipt of further information, no objection, subject to conditions.
- Conservation Officer: Issues identified and concerns expressed: Revised design approach, informed by an understanding of the history and conservation significance of the area, recommended.

### **Grounds of appeal**

- Concern is expressed that the consistent conservation view of the site, i.e. that the bulk of an apartment block would be inappropriate, is not reflected in the draft permission.
- There is an extant permission for the site and, while any new one should seek to improve upon the same, the current proposal would introduce the aforementioned bulk to Church Avenue, something that has previously been excluded.
- A distinction is made between the town like feel of Rathmines Road Upper and the more suburban feel of Church Avenue. The proposal would feature predominantly in the latter rather than the former.
- The applicant refers to a channelled view along Church Avenue. However, this effect arises from a camera position on the opposite side of the Avenue from the site.
- Attention is drawn to the City Conservation Officer's advice, which emphasises that the planned axial route along Church Avenue to Holy Trinity Church is contributed to by existing landscaping and boundary treatments evident on the site. The proposal, especially the four storey element, would detract from this historic context.
- Attention is drawn to the lack of local representations and the question is posed as to whether the site notice was insitu for the requisite period.
- Procedurally, the further information request led on to a 3 month time extension. The view is expressed that, in the interests of transparency, a new application should have been lodged.
- Attention is also drawn to the receipt of the City Conservation Officer's advice after the request for further information was made. Thus, it was not incorporated into this request and the case planner's final report ends up seeking to introduce some modifications by condition that do not sufficiently reflect the same.

## Responses

No response has been received from the planning authority.

The applicant has responded as follows:

- Site notices were posted on 24<sup>th</sup> November 2014, four days before the application was lodged, (photographs of the same have been provided) and they were taken down on 29<sup>th</sup> January 2015. They were thus insitu for the requisite period.
- The applicant clarifies that previous proposals for the site were for three storey dwelling houses and that the question of a four storey block of apartments has not therefore been addressed before. Thus, this question remains an open one.

Nevertheless, the impact of the scale of the current proposal would be comparable to its immediate predecessor. Thus, for example, its parapet height would be 11.8m, whereas the roof of the last permitted proposal would have been 10.8m.

The applicant contends that the elevation to Church Avenue now proposed would be more positive than that previously envisaged, i.e. gabled end elevations. The perceived bulk would be reduced by extensive glazing within this street-side elevation. The overall design would be respectful of the site's context and the presence of the proposal within the same would be benign, e.g. the consistent use of buff coloured brick.

The proposal would also increase the residential yield from the site in a manner that would comply with all relevant CDP standards.

- The Conservation Officer's critique of the proposal is strongly contested. In this respect, attention is drawn to previously permitted proposals for the site which would have followed the same layout as the current one. Why was this critique not applied to them, too?

Historic maps of the area show that the site was previously developed without a set back reflective of the dwelling houses further to the east between this site and Holy Trinity Church.

Under the proposal, the historic line of a stone wall boundary between the site and Church Avenue would be restored.

Reference is made to 2009 street views that include the former garage on the site along with hedges and small trees in the rear garden of No. 54 Rathmines

Road Upper. Both this garage and the said landscaping have since been removed.

The selected camera angle intentionally illustrates the presence of street trees and their importance to the streetscape, which would be unaffected by the proposal.

## **Planning history**

### Site

- 3041/08: Demolition of commercial car sales and repair garage and non-commercial garage and construction of 6 three storey over basement terraced houses and 5 three storey mews style houses + new vehicular access road off Church Avenue: Split decision: 6 three storey over basement terraced houses refused due to drainage issues + Remainder of proposal permitted.
- 5335/08: Demolition of commercial car sales and repair garage and non-commercial garage and construction of 6 three storey over basement terraced houses + new vehicular access road off Church Avenue: Permitted.
- 3538/11: 14 three storey houses + new vehicular access road off Church Avenue: Permitted at appeal PL29S.240153 on 9<sup>th</sup> January 2013.
- Pre-application consultation occurred on 10<sup>th</sup> July 2014.

Adjoining site at 52 Upper Rathmines Road.

- 2448/14: 1 three storey mews style house + access off previously permitted new vehicular access road: Permitted.

## **Development Plan**

Under the Dublin City Development 2011 – 2017 (CDP), the site is zoned Z2 (residential neighbourhoods - conservation areas) wherein the objective is “To protect and/or improve the amenities of residential conservation areas.” This site lies between protected structures on Upper Rathmines Road, i.e. Nos. 44 – 54 (even, inclusive) and Nos. 1 – 4 Church Avenue, which are in the vicinity of Holy Trinity Church, a further protected structure.

Under Policy FC41 of the CDP, the planning authority undertakes “To protect and conserve the special interest and character of...Conservation Areas in the development management process...” Section 17.10.8.1 addresses, development in conservation areas. Thus, particular regard will be had to the following:

- *The effect of the proposed development on buildings and the surrounding environment, both natural and man-made.*
- *The impact of development on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed.*

*Development within conservation areas should be designed so as not to constitute a visually obtrusive or dominant form of development.*

Under the draft Rathmines Local Action Plan 2009, Map 8.6, entitled Architecture and Heritage Strategy, identifies the view from Upper Rathmines Road along Church Avenue as a Key View for Protection and this Avenue, to the east of the site, is identified as a potential ACA. Under Section 10.4, an indicative Environmental Improvement Scheme for Church Avenue is outlined.

### **National planning guidelines and advice**

- Sustainable Residential Development in Urban Areas
- Sustainable Urban Housing: Design Standards for New Apartments: December 2015
- Quality Housing for Sustainable Communities: Best Practice

### **Assessment**

I have reviewed the proposal in the light of national planning guidelines, the CDP and the LAP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and density,
- (ii) Streetscape,
- (iii) Development standards,
- (iv) Flood risk and drainage, and
- (v) AA.

#### **(i) Land use and density**

1.1 Under the CDP, the site is zoned Z2, a residential neighbourhood – conservation area. Within this area, the residential use of land is permissible in principle. The last use of the site as a garage/car sales places would have been a non-permissible use under this zone. This use has been effectively abandoned with the demolition of the garage and the clearance of the site.

- 1.2 The site has the benefit of an extant permission for 14 houses (3538/11 and PL29S.240153). The density represented by this development would be c. 65 dwellings per hectare. Under the current proposal, 16 residential units are proposed, which would represent a density of c. 75 dwellings per hectare.
- 1.3 The Sustainable Residential Development in Urban Areas Guidelines (SRDUA) advise on appropriate locations for increased densities. These Guidelines identify brownfield lands and sites close to public transport corridors, i.e. within 500m of a QBC bus stop and within 1 km of a Luas station, as being suitable for higher densities. They advise that a minimum net residential density of 50 dwellings per hectare is appropriate to such sites. As outlined above, the appeal site is a brownfield one and it is located within 270m of the QBC that runs through Rathmines Key District Centre and 670m of the Beechwood Luas station on the Green Line. Under the current proposal, its density would be well in excess of the stated minimum of 50 dwellings per hectare.
- 1.4 The proposal would combine a mixture of townhouses and apartments. Paragraph 2.2 of the latest Sustainable Urban Housing: Design Standards for New Apartments Guidelines (SUH:SNA) and Policy SC13 of the CDP set out national and local guidance with respect to where apartment developments should be located. The former Guidelines state that such development is most appropriately located within urban areas and its scale and extent should increase in relation to urban centres and established higher density housing areas. Good public transport and proximity to employment and urban amenities are also emphasised. The latter Policy refers to the promotion of sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city. Attention needs to be paid to the context of sites and whether they are supported by a full range of community infrastructure.
- 1.5 As indicated above the site is well placed in relation to public transport and connects to the city centre and employment areas such as Sandyford. It is an urban site that is located both within inner suburbia and close to Rathmines Key District Centre in which a full range of community infrastructure is present. Public open space is likewise available in Belgrave Square and Palmerston Park. The redevelopment of the site affords an opportunity for the urban form and spatial structure of the western portion of Church Avenue to be renewed.
- 1.6 In the light of the foregoing considerations, I conclude that the proposed residential use of the site would be permissible in principle and the inclusion of apartments within the proposed housing mix and the associated increase in the density of development would be appropriate, in principle, too.



## **(ii) Streetscape**

- 2.1 The appellant draws attention to the advice of the City Conservation Officer, which addresses the special interest and character of the residential neighbourhood – conservation area within which the site is located. She outlines how Church Avenue forms an axial route to the focal point provided by the Gothic front elevation of Holy Trinity Church. The two storey over basement terraced dwelling houses that lie in the vicinity of this front elevation are set back from Church Avenue. The separation distance between the corresponding front elevations of these dwelling houses is a generous 43.5m and so they facilitate views of the Church within the setting of its island site. Mature roadside deciduous trees also lie within these views.
- 2.2 The City Conservation Officer's advice explains that the 19<sup>th</sup> Century development of the area was focused around the construction of parish churches. Holy Trinity Church is a fine example of this practise and its circus layout bears comparison with that of St. Stephen's Church/the Pepper Canister Church on Mount Street Upper. The aforementioned views aid an understanding of this historic approach to development.
- 2.3 The appellant expresses concern that the proposal would be obtrusive within the said views and that its intrusive presence would be unsympathetic to the axial status of Church Avenue.
- 2.4 The applicant has responded to this concern by drawing attention to the precedent for development on the site that is afforded by historic maps that depict a line of buildings at the foot of the original full length rear gardens to Nos. 44 – 54 Rathmines Road Upper (even, inclusive). These buildings partly abutted Church Gardens and the most southerly abutted Church Avenue. Thus, they did not exhibit the set back that is evident in the dwelling houses further to the east, between the site and Holy Trinity Church.
- 2.6 The applicant has also responded to this concern by drawing attention to the extant permission for the site, which authorises the construction of three storey dwelling houses up to the southern boundary. They contend that the presence of the permitted end elevations next to the street would not differ that greatly from what is now proposed. Thus, the heights of these elevations would be comparable. Furthermore, the Church Avenue elevations now proposed would incorporate extensive glazing and they would be finished in buff brick, thereby easing their visual impact within the streetscape.
- 2.7 In the absence of evidence to the contrary, I anticipate that the buildings highlighted on the historic maps by the applicant would have been subsidiary in scale to the frontage development on to Rathmines Road Upper and so they

would have been either two storeys or the equivalent of two storeys in height. I note from these maps that a similar pattern of development was evident to the rear of Nos. 56 – 68 Rathmines Road Upper (even, inclusive), to the south of Church Avenue and adjacent to Church Lane. During my site visit, I observed that the rear portions of the gardens to these properties have been redeveloped to provide a part single/part two storey commercial building and three storey residential units behind garages that abut Church Gardens. The commercial building abuts Church Avenue and the exposed northern end elevation to the residential units aligns with the front elevations of the dwelling houses to the east. Thus, the resulting profile of buildings presents the lower elements beside Church Avenue and the higher elements behind the front building line further to the east on this Avenue.

2.8 The draft LAP identifies the view along Church Avenue from its junction with Rathmines Road Upper as a Key View for Protection. Section 17.10.8.1 of the CDP states that development within residential conservation areas should not be visually obtrusive or dominant. While limited weight can be afforded to the LAP, as it remains in draft form only, nevertheless, the view thus identified overlaps with visual amenity considerations within the residential neighbourhood – conservation area, which comprises considerable numbers of protected structures, and so the aforementioned emphasis of the CDP is of relevance.

2.9 I consider that the pattern of redevelopment on the southern side of Church Avenue avoids visual obtrusion within the said view and so it is consistent with the axial status of this Avenue that is upheld by expansive vistas on approach to Holy Trinity Church. I also consider that it maintains a subsidiary scale to the frontage houses onto Rathmines Road Upper, which would historically have had curtilages extending to Church Lane.

2.10 The applicant invites a comparison between the previously permitted dwelling houses and the residential units that are now proposed. In this respect the southern end elevations presented by the two schemes are of interest.

- In both cases the higher of the two southern elevations would be towards the south eastern corner of the site, with respective parapet heights of 36.835m AOD and 38.458m, i.e. a difference of 1.623m. (The latter height would be exceeded by the glazed sides to the proposed roof garden which would rise to 39.558m and the top of the stair core level which would be 40.756m) Their presenting forms and widths would differ markedly. Thus, the former would be part two storey/part three storeys with corresponding widths of 8.9m and 13m, whereas the latter would be part three/part four storeys with corresponding widths of 5m and 18.5275m.

- The lower of the two southern elevations would be towards the south western corner of the site, with respective parapet heights of 35m AOD and 35.860m, i.e. a difference of 0.86m. The former would be part two storey/part three storeys with corresponding widths of 4.1m and 13m, whereas the latter would be three storeys with a width of 11.250m.

Thus, with respect to Church Avenue, the scale of the higher of the two proposed southern end elevations would be considerably greater than that which has been previously permitted, while the scale of the lower of the two would be more comparable.

- 2.11 The third floor of the apartments within Block A would maintain the parapet level of 38.458m AOD for a depth of 13.860m, while the second floor would have a parapet level of 36.596m AOD for a depth of 25.650m. Accordingly, the overall height and bulk of the apartments would be considerably greater than that of the dwelling houses previously permitted for the south eastern portion of the site.
- 2.12 In the light of the foregoing comparison, the apartments within the current proposal would present to the local streetscape as a large and prominent building within their context, which would, consequently, compete for attention with Holy Trinity Church, the historic focal point to Church Avenue. The presence of this building would thus be visually obtrusive and unduly dominant. It would also fail to maintain a clearly subsidiary scale to frontage houses on Rathmines Road Upper. (Historically, the site would have formed part of the curtilages to these houses, curtilages which would have extended to Church Gardens and included at their extremities buildings subsidiary in scale to the said houses).
- 2.13 The planning authority has sought to address the expansiveness and perceived heaviness of the southern end elevations by means of draft conditions 3 and 4. Under the former condition, the brick finished side frames to each terrace would be omitted, i.e. in the case of the higher elevation from the first, second, and third floors and in the case of the lower elevation from the second floor. Under the latter condition, the roof top communal area would be omitted. The third floor penthouse would be reduced in size and compensatory communal space would be provided alongside it on the third floor.
- 2.14 I consider that, while these conditions would have the effect of reducing the extent of these elevations somewhat, they would detract from the architectural integrity of the revised proposal and they would cause these elevations to appear more vertical in emphasis.

- 2.15 The applicant refers to the glazing on the previously permitted and currently proposed southern end elevations. I have compared the fenestration in these elevations and, while it differs insofar as the former follows a less regimented pattern than the latter, I consider that the latter would contribute to the vertical emphasis of the elevations concerned.
- 2.16 The applicant also refers to the re-specification of the finishing material as a buff rather than red brick. I note that this brick would give the proposal a more muted appearance. I note, too, that condition 2 attached to the extant permission (3538/11 and PL29S.240153) allows the planning authority control over finishing materials and so a similar muted appearance could ensue under this permission.
- 2.17 In the light of the above discussion, I consider that the current proposal, while designed in an architecturally convincing manner in its own right, would be a visually obtrusive and dominant presence within the historic and sensitive streetscape of Church Avenue and that as a result it would be an unsympathetic and inappropriate addition to the same. Additionally, the scale of the proposal would fail to be clearly subsidiary to that of the frontage houses onto Rathmines Road Upper. I, therefore, conclude that the proposal would to protect and conserve the special interest and character of the residential neighbourhood – conservation area.

### **(iii) Development standards**

- 3.1 The proposal would entail the provision of 16 residential units, 9 of which would be dwelling houses and 7 of which would be apartments. The proposed dwelling houses would comprise 5 three-bed and 4 four-bed units, while the proposed apartments would comprise 1 one-bed, 5 two-bed, and 1 three-bed units. Accordingly, the proposal would represent a good mix of unit types and sizes.
- 3.2 The site would be laid out around a new access road that would be constructed on a north/south axis through roughly the middle of the same. Block A would be sited to the east of this road and it would be composed of the four-bed dwelling houses and the apartments. This Block would front onto Church Gardens to the east of the site. Blocks B and C would be sited to the west of the access road and they would be composed of three-bed dwelling houses, i.e. 4 units in the former and 1 unit in the latter. All of the residential units would be orientated on an east/west axis. Additionally, those units abutting Church Avenue would have southerly aspects, too.
- 3.3 I have reviewed the proposed dwelling houses in the light of Section 17.9.1 of the CDP and Table 5.1 of the Quality Housing for Sustainable Communities: Best

Practice Guidelines (QHSC:BP). This Section and this Table set out minimum areas and dimensions for dwelling houses.

- The dwelling houses in Block A would be compliant.
- The dwelling houses in Block B would have insufficient living room space. The main living room would be 14 sq m and thus below the minimum of 15 sq m and the aggregate living room space, which would include the kitchen, too, would be 32.1 sq m, whereas the QHSC:BP cites 37 sq m as the relevant aggregate minimum. By contrast, the aggregate bedroom space would be 48.2 sq m, whereas the QHSC:BP cite 36 sq m in this respect. Some rebalancing between living room and bedroom space is therefore needed.
- The dwelling house in Block C would have insufficient living room space. The aggregate living room space, which would include the kitchen, too, would be 31.7 sq m, whereas the QHSC:BP cites 37 sq m as the relevant aggregate minimum. By contrast, the aggregate bedroom space would be 47.8 sq m, whereas the QHSC:BP cite 36 sq m in this respect. Some rebalancing between living room and bedroom space is therefore needed.

I consider that, should the Board be minded to permit this proposal, the aforementioned rebalancing could be the subject of an amending condition.

3.4 The aforementioned Section 17.9.1 also sets out open space standards, whereby each bedspace should be accompanied by 15 sq m of private open space.

- The four-bed dwelling houses would provide 6 bedspaces and so 90 sq m would be the appropriate level of provision. Each dwelling house would have a second floor rear terrace of 13 sq m and rear gardens would variously be 62, 63, and 67 sq m. Thus, the aggregate private open space envisaged would be 75, 76, and 80 sq m in extent and thus below the said minimum.
- The three-bed dwelling houses would provide 6 bedspaces and so 90 sq m would be the appropriate level of provision. Each dwelling house would have a second floor rear terrace of 19 sq m and rear gardens would variously be 46, 51, 53, and 56 sq m. Thus, the aggregate private open space envisaged would be 65, 70, 72, and 75 sq m in extent and thus below the said minimum.

I consider that, while some of the aforementioned shortfalls in quantitative provision would be significant, as both the rear gardens and the terraces would face west and as the terraces would be at second floor level, these favourable orientations and elevations would ensure that the amenity value of the open space is good and so I do not propose to object to the identified shortfalls in this case. If the Board is minded to permit this proposal, then a condition curtailing

domestic exempted development should be attached to ensure that the provision of open space can be safeguarded in the future.

- 3.5 I have reviewed the proposed apartments in the light of Section 17.9.1 of the CDP and the Appendix of the Sustainable Urban Housing: Design Standards for New Apartments (SUH:DSNA) (December 2015). This Section and this Appendix set out minimum areas and dimensions for apartments. Each of the proposed apartments would be compliant with the said minimum areas and dimensions.
- 3.6 With respect to private and communal open space, Section 17.9.1 cites a range of 12 – 15 sq m per bedspace, whereas the Appendix cites 10, 14, and 19 sq m as the minimum level of provision for one/two/three-bed apartments with each of these figures being disaggregated evenly between private and communal open space.
- 3.7 The proposal would entail the provision of 12.7 sq m for the on-bed apartment (2 bedspaces), either 11 or 11.6 sq m for the two-bed ones (3/4 bedspaces), and 54 sq m for the three-bed one (6 bedspaces). A further 141 sq m of communal open space would be provided on the roof of the proposed penthouse. A total of 26 bedspaces would be provided. Thus, under the aforementioned Section and Appendix, 312 – 390 sq m and 99 sq m would be required, respectively.
- 3.8 Under the proposal, a total of 252.90 sq m of private and communal open space would be required to serve the apartments, an amount that would be below the CDP's requirement but well above the requirement of the new Guidelines. Paragraph 2.1 advises that "these guidelines state Government policy as regards minimum standards for apartment development and the specific planning policy requirements of the guidelines preclude planning authorities from specifying conflicting standards in their statutory development plans." I understand this advice to mean that, where there is a difference between the CDP and the Guidelines, the latter should prevail. Thus, the proposed level of open space provision for the apartments would be adequate.
- 3.9 The CDP requires that 10% of new residential sites be given over to the provision of public open space or, where such provision would not be feasible due to site constraints, payment of a financial contribution towards the funding of new public open space or the upgrade of existing public open space. The applicant has not proposed any on-site provision in this respect and so I consider that, in the event that the Board is minded to permit this proposal, that a financial contribution should be required towards the same.
- 3.10 The site is located within the CDP's Area 2 for car parking purposes, wherein a maximum of 1 space per residential unit is normally required. Thus, as the proposal is for 16 residential units, 16 spaces should be provided. However, 20

spaces would be provided as a result of ascribing 2 spaces to each of the 4 four-bed dwelling houses. The CDP states that the aforementioned maximum can be relaxed where a site lies near to a boundary between Areas. I note that in the case of the current appeal site, it is located close to the boundary with Area 3, wherein 1.5 spaces per residential unit would be required. In these circumstances, I accept that the proposed level of provision can, therefore, be acceded to.

- 3.12 The apartments would be provided with bicycle parking, which should ensure that 1 cycle space per apartment is provided as a minimum. These apartments would also be provided with a dedicated bin store that would be adjacent to the proposed access road and in the vicinity of the site entrance from Church Avenue.
- 3.13 The proposed access road would be 6m wide and the site entrance would be accompanied by good sightlines, due to the generous width of the existing footpath along the nearside of Church Avenue.
- 3.14 I conclude that, subject to the rebalancing of living and bedroom accommodation in the proposed three-bed dwelling houses, the proposal would be compatible with all relevant development standards.

#### **(iv) Flood risk and drainage**

- 4.1 Following a request for further information, the applicant submitted a Site-Specific Flood Risk Assessment, which concludes that the site is not at risk of fluvial or coastal flooding and that the pluvial flood risk and the flood risk posed by the existing drainage network would be addressed by the design of the proposed on-site and off-site drainage system. The former system would incorporate SuDS and the latter system would entail the provision of a replacement culvert to one that is blocked/collapsed.
- 4.2 I conclude that the flood risk attendant upon the site has been satisfactorily addressed and that the proposed on-site and off-site drainage systems would be appropriate.

#### **(v) AA**

- 5.1 The site is neither in nor near to a Natura 2000 site. The nearest such sites are in Dublin Bay (SAC and SPA). The proposal would be linked to these sites via the combined foul and surface water public sewerage network that discharges to the Ringsend WWTP. Periodic storm water surges through this Plant can lead to a decrease in the water quality of the Bay. However, the Conservation Objectives of the said Natura 2000 sites do not refer to water quality. Furthermore, the

scale of water treatment occurring at the Plant is such that the contribution of the proposal would be negligible.

5.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **Recommendation**

In the light of my assessment, I recommend that the proposed 16 residential units, off-street car and bicycle parking, bin storage areas, works to existing stone wall on Church Avenue, and all associated site development, landscaping, boundary treatment works and services provision on site at the corner of Church Avenue and Church gardens, and lands to the rear of properties nos. 44 – 54 Upper Rathmines Road (all protected structures), Rathmines, Dublin 6, be refused.

### **Reasons and considerations**

Under the Dublin City Development Plan 2011 – 2017, the site is located within an area that is zoned as a residential neighbourhood – conservation area. Section 17.10.8.1 of this Plan states that development within such an area should not be visually obtrusive or dominant and, under Policy FC41, the planning authority undertakes to protect and conserve the special interest and character of these areas.

The southern boundary of the site maintains a frontage to Church Avenue, which forms an axial route to Holy Trinity Church, a protected structure which provides the focal point of the said residential neighbourhood – conservation area. To the west of the site is a terrace of three storey over basement houses on Rathmines Road Upper, which are protected structures, too, the curtilages to which would have historically incorporated the site. The proposal would entail the construction of four storeys of apartments in the south eastern portion of the site, which, due to their prominent siting and their scale and bulk on the street front, would be visually obtrusive and unduly dominant. They would thus compete with the said focal point and they would fail to be clearly subsidiary to the aforementioned houses.

Accordingly, the proposal would contravene the above cited provisions of the Development Plan and it would be an unsympathetic addition to the historic and sensitive streetscape of Church Avenue and, as such, seriously injurious to the visual amenities of the residential neighbourhood – conservation area. It would thus be contrary to the proper planning and sustainable development of the area.



Hugh D. Morrison

Inspector

21<sup>st</sup> March 2016